IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF TEXAS

TYLER DIVISION

DARRELL HARPER                          §

v.                                      §          CIVIL ACTION NO. 6:14cv608

STATE OF TEXAS                          §


MEMORANDUM ADOPTING REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE
AND ENTERING FINAL JUDGMENT

The Plaintiff Darrell Harper, proceeding *pro se*, filed this civil rights lawsuit under 42 U.S.C. §1983 complaining of alleged violations of his constitutional rights. This Court ordered that the case be referred to the United States Magistrate Judge pursuant to 28 U.S.C. §636(b)(1) and (3) and the Amended Order for the Adoption of Local Rules for the Assignment of Duties to United States Magistrate Judges. The sole named defendant is the State of Texas - Department of Public Safety.

Harper states that the Department of Public Safety "corruptibly arrested him" and prosecuted him on charges of terroristic threat, in retaliation for his having filed discrimination charges against the Department. Harper concedes that he has been sanctioned by the Fifth Circuit for filing frivolous appeals, but says that these sanctions should be stricken as violating the Canons of Conduct for United States Judges; he claims that "the sanction is about as authentic as Defendant State of Texas Department of Public Safety not having a history of discrimination." He seeks damages of $100,000,000.00.

After review of the pleadings, the Magistrate Judge issued a Report recommending that the lawsuit be dismissed. The Magistrate Judge stated that the sole named defendant in the lawsuit is an agency of the State of Texas and thus has Eleventh Amendment immunity from a lawsuit for monetary damages, rendering Harper's claim for such damages without merit. The Magistrate Judge also observed that Harper was an inveterate filer of frivolous lawsuits. The Fifth Circuit has

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sanctioned him a total of $400.00 and has barred him from filing pleadings in any court subject to the Fifth Circuit's jurisdiction until the total amount of this sanction is paid in full. *Harper v. City of Houston*, slip op. no. 07-20603 (5th Cir., June 19, 2008). Harper has not shown that he has paid this sanction.

In his objections, Harper states that he has "probable cause to proceed as a pro se sanctioned litigant" because he did not consent to a Magistrate Judge's jurisdiction in the case. He says that the Department of Public Safety's history of discrimination failed to provide specific details, indicating that he was subjected to "employment discrimination" by the Department. Harper also states that "employment discrimination" is holding him bound to the sanctions "along with multiple infractions he has yet to commit nor through any fault of plaintiff's own for having filed discrimination complaints." Harper does not mention the Magistrate Judge's conclusion that the Department of Public Safety has Eleventh Amendment immunity, nor does he refer to the sanctions other than through his curious contention that these were the result of "employment discrimination." Harper's objections are without merit.

The Court has conducted a careful *de novo* review of the pleadings in this case, including the Report of the Magistrate Judge and the Plaintiff's objections thereto. Upon such *de novo* review, the Court has concluded that the Report of the Magistrate Judge is correct and that the Plaintiff's objections are without merit. It is accordingly

ORDERED that the Plaintiff's objections are overruled and the Report of the Magistrate Judge (docket no. 3) is ADOPTED as the opinion of the District Court. It is further

ORDERED that the above-styled civil action be and hereby is DISMISSED with prejudice as frivolous and as barred by the sanctions imposed by the Fifth Circuit. It is further

ORDERED that the Clerk shall send a copy of this order to the Administrator of the Strikes List for the Eastern District of Texas. Finally, it is

ORDERED that any and all motions which may be pending in this action are hereby DENIED.

**So ORDERED and SIGNED this 28th day of August, 2014.**

**LEONARD DAVIS**
**UNITED STATES DISTRICT JUDGE**